

REMARKS

The undersigned thanks the Examiner for the courtesies extended during the telephone interview of July 5, 2005.

Claims 1-7, 9-10 and 13 were rejected as being anticipated by Patel. This rejection is respectfully traversed.

In the present case, the Examiner cited MPEP 715.03 I(B) and treated claim 1 as a genus claim. The Examiner states that Patel discloses several species falling within the genus of claim 1. In this situation, as per MPEP 715.03 I(B), the requirement to antedate a reference such as Patel that discloses several species would be to show that Applicants completed, prior to the filing date of Patel, all of the species shown in Patel that are within the scope of the claimed genus. *In re Stempel*, 241 F.2d 755 (CCPA 1957).

However, when a claim is a species claim, then MPEP 715.03 I(A) explains that the way to antedate a prior art reference is the following:

Where the claim under rejection recites a species and the reference or activity discloses the claimed species, the rejection can be overcome under 37 CFR 1.131 directly by showing prior completion of the claimed species or indirectly by a showing of prior completion of a different species coupled with a showing that the claimed species would have been an obvious modification of the species completed by applicant. See *In re Spiller*, 500 F.2d 1170, 182 USPQ 614 (CCPA 1974).

Claim 1, as amended, discloses multiple species. The only species that are within the scope of claim 1 are those that are also disclosed in the patent specification in Table 1 and in the certified English translation of the Report of Invention, which has already been filed at the USPTO on April 18, 2005. The certified English translation of the Report of Invention shows that Applicants were in possession of the claimed species as of February 26, 2002. As such, under

MPEP 715.03 I(A), the rejection over Patel has properly been overcome by showing prior completion of the claimed species.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing Attorney Docket No. 300602004200.

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Respectfully submitted,

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